

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC,
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

COLORADO PUBLIC UTILITIES COMMISSION'S
UNOPPOSED MOTION TO MODIFY PROCEDURAL SCHEDULE

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Dated: June 7, 2005

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The Public Utilities Commission of the State of Colorado ("CPUC"), by and through the Colorado Attorney General, hereby submits this unopposed motion to modify the procedural schedule with respect to the petition for declaratory order filed by East West Resort Transportation, LLC and TMS, LLC d/b/a Colorado Mountain Express ("CME"). CPUC makes this motion pursuant to 49 C.F.R. § 1104.7(b). In support, CPUC states as follows.

1. By its Decision dated April 8, 2005, the Board granted CPUC's motion seeking the opportunity to conduct discovery and established June 10, 2005 as the due date for CPUC's reply to CME's petition for declaratory order. In that same decision, the Board established June 20, 2005 as the due date for CME's rebuttal statement.

2. During the course of its discovery, CPUC petitioned the board for the issuance of two subpoenas to testify at deposition. On June 1, 2005, the Board granted these petitions for subpoena to appear at deposition.

3. As a result of the Board's June 1, 2005 decision to permit CPUC to take the requested depositions, counsel for CPUC, CME, Vail Resorts Management Company, and Aspen Ski Tours conferred regarding the deposition schedule to be implemented.

Notwithstanding the bases for their opposition to the issuance of the subpoenas, CME, Vail Resorts Management Company, and Aspen Ski Tours mutually agreed to reschedule the depositions to be taken by CPUC.¹

4. The agreement to reschedule the depositions further resulted in CPUC and CME agreeing to file the instant motion seeking Board approval of a modification to the presently established procedural schedule.

5. By mutual agreement to accommodate the rescheduling of the depositions and the July 4th holiday weekend, CPUC and CME seek a decision of the Board that establishes the following due dates:

July 1, 2005 – due date for CPUC's reply to CME's petition for declaratory order

July 18, 2005 – due date for CME's rebuttal statement

¹ As of the filing of this motion, a new times for the depositions of Mr. Christopher Jarnot and Ms. Susan Rubin-Stewart of Vail Resorts Management have not been established. CPUC believes that agreed upon times for the taking of these depositions is forthcoming and will not impact the relief requested in this motion. CPUC reserves the right to seek further modifications to the procedural schedule in this matter if the depositions of the witnesses from Vail Resorts Management Company cannot be taken on or before June 20, 2005.

6. Undersigned has conferred with Mr. Tom Burke, counsel for CME, and is authorized to state that CME supports this motion and the procedural schedule set forth above.

7. Because this motion is unopposed and, to the extent necessary, CPUC requests that, pursuant to 49 C.F.R. § 1110.9, the Board waive the “not less than 10 days before the due date” requirement of 49 C.F.R. § 1104.7.

WHEREFORE, CPUC respectfully requests that the Board grant this unopposed motion and modify the procedural schedule such that July 1, 2005 is the due date for CPUC’s reply to CME’s petition for declaratory order and July 18, 2005 is the due date for CME’s reply statement.

Dated this 7th day of June, 2005.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within COLORADO PUBLIC UTILITIES COMMISSION'S UNOPPOSED MOTION TO MODIFY PROCEDURAL SCHEDULE upon all parties herein by electronic mail and depositing copies of same in the United States mail, first class postage prepaid, or as otherwise indicated, at Denver, Colorado, this 7th day of June, 2005, addressed as follows:

Thomas J. Burke Jr.
Jones & Keller
1625 Broadway, Suite 1600
Denver, CO 80202

Fritz R. Kahn
Fritz R. Kahn P.C.
1920 N Street NW 8TH Floor
Washington, DC 20036-1601

A handwritten signature in cursive script that reads "Jacqueline Jackson". The signature is written in black ink and is positioned centrally below the two columns of recipient addresses.